

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,)	
425 Third Street SW, Suite 800)	
Washington, DC 20024,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
U.S. DEPARTMENT OF STATE,)	
The Executive Office)	
Office of the Legal Adviser, Suite 5.600)	
600 19 th Street NW)	
Washington, DC 20522,)	
)	
Defendant.)	
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COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against the U.S. Department of State to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552. As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the

responses and disseminates its findings and the requested records to the American public to inform them about “what their government is up to.”

4. Defendant U.S. Department of State is an agency of the United States Government headquartered at 2201 C Street NW, Washington, DC 20520. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On June 24, 2019, Plaintiff submitted a FOIA request to Defendant seeking access to the following records:

1. **All analyses, reports and recommendations related to Committee on Foreign Investment in the United States (“CFIUS”) consideration of investments by the Ukrainian company Burisma Holdings LTD or any Burisma Holding LTD-affiliated entities.**
2. **All emails sent to or from State Department officials related to CFIUS consideration of investments by the Ukrainian company Burisma Holdings LTD or any Burisma Holdings LTD-affiliated entities.**

The request was sent to the component of Defendant designated to receive FOIA requests.

6. That same day, June 24, 2019, Plaintiff submitted a second FOIA request to Defendant seeking access to the following records:

1. **All analyses, reports and recommendations related to Committee on Foreign Investment in the United States (“CFIUS”) consideration of investments by the Chinese company Bohai Harvest RST or any Bohai Harvest RST-affiliated entities.**
2. **All emails sent to or from Treasury Department officials related to CFIUS consideration of investments by the Chinese company Bohai Harvest RST or any Bohai Harvest RST-affiliated entities.¹**

¹ The reference to the Treasury Department was a typographical error. The request should have read “State Department,” which is readily apparent from the request.

The time frame of this particular request was identified as “January 2016 to the present.” Like the request for records regarding Burisma Holdings LTD, the request for records regarding Bohai Harvest RST was sent to the component of Defendant designated to receive FOIA requests.

7. By letter dated July 25, 2019, Defendant acknowledged receipt of Plaintiff’s request for records regarding Burisma Holdings LTD on July 2, 2019. Defendant assigned the request FOIA tracking number F-2019-07628. Defendant’s acknowledgment letter invoked FOIA’s 10-day extension of time provision for “unusual circumstances.”

8. By letter dated August 20, 2019, Defendant acknowledged receipt of Plaintiff’s request for records regarding Bohai Harvest RST on July 2, 2019. Defendant assigned the request tracking number F-2019-7626. Defendant’s acknowledgment letter invoked FOIA’s 10-day extension of time provision for “unusual circumstances.”

9. As of the date of this Complaint, Defendant has not: (i) produced the requested records or demonstrated that the requested records are lawfully exempt from production; (ii) notified Plaintiff of the scope of any responsive records they intend to produce or withhold and the reasons for any withholdings; or (iii) informed Plaintiff that it may appeal any adequately specific, adverse determination.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

10. Plaintiff realleges paragraphs 1 through 9 as if fully stated herein.

11. Defendant is in violation of FOIA.

12. Plaintiff is being irreparably harmed by Defendant’s violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with FOIA’s requirements. Plaintiff also has no adequate remedy at law.

13. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make final determination on Plaintiff's requests within the time limits set by FOIA. Because the requests were sent to the component designated by Defendant to receive FOIA requests, Defendant's determinations were due by August 28, 2019 at the latest.

14. Because Defendant failed to make final determinations on Plaintiff's requests within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to search for any and all records responsive to Plaintiff's FOIA requests and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the requests; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's requests and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the requests; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: September 30, 2019

Respectfully submitted,

s/ Jason B. Aldrich
JASON B. ALDRICH
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Counsel for Plaintiff